

**Town of Milford  
Zoning Board of Adjustment Minutes  
January 7, 2010  
Case #37-09  
Carl Chappell  
Special Exception**

Present: Steven Bonczar – Chairman  
Fletcher Seagroves  
Laura Horning  
Steve Winder – Alternate  
Michael Unsworth - Alternate

Katherine Bauer – Board of Selectmen representative  
Zach Tripp – Alternate

Absent: Kevin Johnson

Secretary: Kathryn Parenti

The applicant, Carl Chappell, owner of 116 Osgood Road, Map 42, Lot 46, in the Residence “R” district, is requesting a special exception from Article II, Section 2.03.1:C to expand an existing non-conforming use with the addition of rental space for commercial storage.

Motion to Approve: \_\_\_\_\_

Seconded: \_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Steven Bonczar, Chairman, opened the meeting by stating that the hearings are held in accordance with the Town of Milford Zoning Ordinances and the applicable New Hampshire statutes. He continued by informing all of the procedures of the Board; he then introduced the Board. He noted this case had been tabled from December 17, 2009. He read the notice of hearing and the list of abutters into the record; Carl & Sally Chappell of 116 Osgood Road were present. Regarding the notice of hearing, he noted there was an error – the parcel was listed as being in Residence “R” but it is actually in Residence “A”. He invited the applicant forward to present his application.

C. Chappell stated everything going on at this piece of property has been going on for a number of years; he was just before the board to make it legal with the town. He stated Shattuck Paving has been renting from him for approximately seventeen (17) years, Greg Balcom Landscaping has been renting from him for seven (7) or eight (8) years and Pat Karney has been renting from him for the past four (4) or five (5) years. He is before the board to record that this has been addressed. He stated this situation had been discussed with the former code official, Kevin Lynch, who had known about this situation for perhaps seven (7) or eight (8) years but never did anything about it. He did want it on the record that he does have rental units.

S. Bonczar he noted the forestry operation will be continuing and they are just continuing the non-conforming use of the existing rental units.

C. Chappell replied the forestry issue has already been taken care of; he just needs to have on record the rentals are there.

S. Bonczar asked if there were any questions by the board. He noted it sounded like this has been going on for some time. It’s just an continuation and they are not going beyond what currently exists there.

C. Chappell agreed; nothing is changing and it is all on-going – all the businesses have been there for a period of time.

F. Seagroves asked if they would be going before the planning board.

C. Chappell replied they were.

S. Bonczar also noted there was a memo from Bill Parker, Zoning Administrator, which gave the board members back ground on this situation. He had looked at the application and has no issues with this request – this has been in existence and is long term. He then asked C. Chappell to go through the criteria for a special exception.

**1. The proposed use shall be similar to those permitted in the district:**

C. Chappell stated there is currently an agricultural use which is allowed and commercial rental businesses that compliment the agricultural wood products business.

**2. The specific site is an appropriate location for the proposed use because:**

C. Chappell stated this has been in operation for over fifteen (15) years as an agricultural use and commercial rental space. The rental space is minor compared to the agricultural operation.

**3. The use developed will not adversely affect the adjacent area because:**

C. Chappell stated this has been in operation for over fifteen (15) years at this site. The use is very minor in nature compared to the agricultural operation.

**4. There will be no nuisance or serious hazard to vehicles or pedestrians:**

C. Chappell state this is a twenty (20) plus acres site with operations far from the roadway and any abutters.

**5. Adequate appropriate facilities will be provided for the proper operation of the proposed use because:**

C. Chappell stated the use requires parking areas which are in existence and well maintained.

S. Bonczar asked if there were any additional questions.

F. Seagroves asked if there would be any additional traffic or trailers or will it be the same.

C. Chappell replied one (1) renter is not currently there but the next renter will be the same type of use.

S. Bonczar asked if there were any additional questions; there were none so he opened the meeting to public comment.

K. Bauer would like to clarify that the town allows the expansion of a non-conforming use, which this is. She hoped S. Bonczar would read the section of the ordinance into the record to inform the viewing public so they know what is going on.

S. Bonczar replied he would and agreed this is a vehicle for the residents of the town who want to expand their non-conforming uses, already in existence. In this case, it was done years ago but was not officially recorded. He then closed the public portion of the hearing and read from The Town of Milford Zoning Ordinance, Article II, Section 2.03.1 – Intent for non conforming use and structure (2001): *“The intent of this section is to allow for the lawful continuance of non-conforming uses, and/or structures and to allow a certain reasonable level of alteration, expansion or change that will not change the nature of the use and unduly impact the neighborhood. A. Continuance: A non-conforming use may be continued, although such use does not conform to the current provisions of this Ordinance. B. Discontinued use: Whenever a non-conforming use has been discontinued for more than one (1) year for any reason, such non-conforming use shall not thereafter be reestablished, and the future use of the property shall be in conformity with the provisions of this Ordinance. C. Alterations: Alteration, expansion or change of a non-conforming use or structure shall only be permitted by Special Exception by the Zoning Board of Adjustment if it finds that: 1. The proposed alteration, expansion or change will not change the nature of the original use; and 2. The proposed alteration, expansion or change would involve no substantially different effect on the neighborhood. (1999)”*

S. Bonczar asked if the board has any questions; they did not so they continued with the discussion of the criteria.

**1. Is the exception allowed by the Ordinance?**

F. Seagroves stated this is allowed by the ordinance; the portion of the business he’s asking for has been in place for about twenty (20) years so he didn’t see any problems with the request.

M. Unsworth and S. Winder agreed the documents provided have shown this is allowable.

L. Horning agreed for all the above mentioned reasons.

S. Bonczar stated such expansions are allowable. This would not have a different affect on the neighborhood and they are not planning on going beyond what is there. They are merely bringing the operation into conformance with the ordinance.

**2. Are the specified conditions present under which the exception may be granted?**

S. Winder stated the specified conditions are present and is has been clearly indicated this use is allowable.

F. Seagroves stated according to the Handbook for Zoning Officials, they can grant the special exception.

M. Unsworth stated he had no issues with this.

L. Horning stated the special conditions of the property do exist.

S. Bonczar stated the conditions have been met. He noted they also look at safety and as there will be no change and this has been in operation for many years. He also noted there had been no statements from any abutters and none were present at the meeting.

S. Bonczar asked if the board members or anyone in the audience had any questions or comments; there were none so he called for a vote.

**1. Is the exception allowed by the Ordinance?**

M. Unsworth - yes    L. Horning - yes    F. Seagroves – yes    S. Winder – yes

S. Bonczar - yes

**2. Are the specified conditions present under which the exception may be granted?**

L. Horning – yes    F. Seagroves – yes    S. Winder – yes    M. Unsworth – yes

S. Bonczar - yes

S. Bonczar asked if there was a motion to approve Case #37-09.

F. Seagroves made the motion to approve Case #37-09.

M. Unsworth seconded the motion.

**Final Vote**

F. Seagroves – yes    S. Winder – yes    M. Unsworth – yes    L. Horning – yes

S. Bonczar – yes

Case #37-09 was approved by a unanimous vote.

S. Bonczar reminded the applicant of the thirty day appeal period.